

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CRIMINAL ACTION NO. 05-10204-GAO

UNITED STATES OF AMERICA

v.

PAUL HICKS

ORDER

September 6, 2006

O'TOOLE, D.J.

After review of the materials submitted *in camera* by the government pursuant to my oral order made at the hearing on July 25, I conclude that the defendant's motion for additional discovery (Dkt. No. 32) should be GRANTED.

The government makes essentially two objections to the motion. First, it objects that the materials lack probative exculpatory or impeachment value. After review, I conclude that it would be wrong to say that the materials have no possible probative value as to such matters. How much, or how little, value they have is, in the circumstances, best left to the adversary process, rather than an *ex parte* determination.

The government's other objection is that the information would unnecessarily risk disclosing the identity of the confidential informant who is said to have participated in the drug transactions with the defendant. I think that is unlikely. Public information already discloses the government's position that a confidential informant engaged in transactions with the defendant "on or about" January 7 and January 16, 2005. The materials reviewed *in camera* do not add any further information that could make it more probable that the defendant would be able to realize

who the informant was. While there is a legitimate interest in protecting the identity of confidential informants, I do not view the materials in question as undercutting that interest.

Copies of the materials submitted *in camera* shall be furnished to the defendant within fourteen days of the date of this order.

It is SO ORDERED.

September 6, 2006

\_\_\_\_\_  
DATE

/s/ George A. O'Toole, Jr.

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DISTRICT JUDGE